

DEPARTMENT OF TRANSPORTATION  
UNITED STATES COAST GUARD  
WASHINGTON, D.C. 20593

STATEMENT OF CAPTAIN WILLIAM KIME, DEPUTY CHIEF, OFFICE OF MARINE  
ENVIRONMENT AND SYSTEMS, BEFORE THE SUBCOMMITTEE ON PANAMA CANAL/  
OUTER CONTINENTAL SHELF OF THE MERCHANT MARINE AND FISHERIES  
COMMITTEE, U.S. HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 1981

GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE ON PANAMA  
CANAL/OUTER CONTINENTAL SHELF. I AM CAPTAIN WILLIAM KIME, DEPUTY  
CHIEF OF THE OFFICE OF MARINE ENVIRONMENT AND SYSTEMS OF THE U.S.  
COAST GUARD. I AM PLEASED TO HAVE THIS OPPORTUNITY TO TESTIFY  
BEFORE THIS SUBCOMMITTEE CONCERNING LEGISLATIVE CHANGES UNDER  
CONSIDERATION TO IMPROVE OUR ABILITY TO CARRY OUT THE OCS PROGRAM  
IN AN EFFICIENT AND ENVIRONMENTALLY SAFE MANNER.

SINCE MY REMARKS THIS MORNING FOCUS PRINCIPALLY UPON PROPOSED  
LEGISLATIVE CHANGES TO TITLE III OF THE 1978 AMENDMENTS TO OCS  
LANDS ACT, I HAVE WITH ME MR. FRANK MARTIN OF OUR POLLUTION  
LIABILITY FUNDS MANAGEMENT STAFF, WHICH ADMINISTERS THE OFFSHORE  
OIL POLLUTION COMPENSATION FUND.

AS YOU AND THE SUBCOMMITTEE MEMBERS ARE WELL AWARE, MR. CHAIRMAN, THE PROPOSED STATUTORY CHANGES TO TITLE III OF THE 1978 OCS LANDS ACT AMENDMENTS INVOLVE LEGALLY COMPLEX MATTERS. THEREFORE, MR. FRED PRESLEY OF OUR MARITIME AND INTERNATIONAL LAW DIVISION OF THE CHIEF COUNSEL'S OFFICE ALSO APPEARS HERE WITH ME THIS MORNING. MR. PRESLEY SERVES AS ATTORNEY-ADVISER TO THE FUND ADMINISTRATOR ON THE LIABILITY ISSUES RELATED TO IMPLEMENTATION, MANAGEMENT, AND ADMINISTRATION OF THE TITLE III FUND.

MR. CHAIRMAN, OF ALL THE MATERIAL WE HAVE BEEN ASKED TO REVIEW IN PREPARATION FOR THIS HEARING, THE COAST GUARD WOULD BE DIRECTLY AND SUBSTANTIALLY AFFECTED IN ITS OCS PROGRAM RESPONSIBILITIES ONLY WITH THOSE CHANGES THIS SUBCOMMITTEE IS CONSIDERING TO AMEND TITLE III OF THE 1978 OCS LANDS ACT AMENDMENTS. PARTICULARLY REGARDING THE STAFF COMMITTEE DRAFT OF 14 SEPTEMBER 1981, WE HAVE MADE AN INITIAL REVIEW OF THE DRAFT AND OFFER THE GENERAL OBSERVATION THAT THE APPROACH TO LEGISLATIVE CHANGE REFLECTED THEREIN COULD APPARENTLY RESULT IN EXTENSIVE OVERHAUL OF THE TITLE III PROGRAM. WHILE WE HAVE ANALYZED THE IMPACT OF THE PROPOSED AMENDMENTS ON COAST GUARD PROGRAMS, WE HAVE NOT HAD THE OPPORTUNITY, SINCE RECEIVING THE CURRENT PROPOSALS AT NOON LAST TUESDAY, TO HAVE OUR DETAILED VIEWS ON THE 14 SEPTEMBER DRAFT FULLY CLEARED IN-HOUSE AND BY THE ADMINISTRATION.

WITH YOUR PERMISSION, MR. CHAIRMAN, I WOULD NOW LIKE TO DIRECT THE REMAINDER OF MY COMMENTS TO CURRENT LIABILITY ISSUES INVOLVED IN ADMINISTERING THE OFFSHORE OIL POLLUTION COMPENSATION FUND. APPROPRIATE LEGISLATIVE CHANGE IN THIS AREA, AS ALREADY PROPOSED TO CONGRESS BY THE SECRETARY OF TRANSPORTATION, WILL GREATLY IMPROVE OUR MANAGEMENT OF THE OVERALL OCS OFFSHORE OIL POLLUTION COMPENSATION FUND PROGRAM AND THE ADMINISTRATION OF THE OIL POLLUTION LIABILITY PROVISIONS OF TITLE III. THE CHANGES RECOMMENDED BY THE DEPARTMENT WERE PREPARED ONLY AFTER CAREFUL REVIEW OF OUR OPERATIONAL EXPERIENCES AND CONSULTATION WITH OTHER CONCERNED PARTIES. WE, THEREFORE, RECOMMEND THAT OUR PROPOSAL (COPY ATTACHED) BE ADOPTED BY THE COMMITTEE. WE DO NOT BELIEVE THAT ADDITIONAL LEGISLATIVE CHANGES ARE NEEDED AT THIS TIME.

BEFORE DISCUSSING OUR LEGISLATIVE PROPOSAL, I WILL PROVIDE A QUICK SUMMARY OF THE CURRENT STATUS OF THE FUND PROGRAM ITSELF.

1. THE FUND BALANCE AS OF 15 SEPTEMBER 1981 IS ABOUT \$16.1 MILLION, WHICH IS INVESTED IN TREASURY SECURITIES AS REQUIRED BY TITLE III.
2. OCS BARREL FEE COLLECTIONS AND INTEREST EARNED ON INVESTMENTS ARE CURRENTLY GENERATING MONTHLY FUND REVENUES OF ABOUT \$770,000.

3. OCS SPILLS ARE REPORTED DAILY TO THE FUND ADMINISTRATOR THROUGH THE NATIONAL RESPONSE CENTER. I AM PLEASED TO ANNOUNCE THAT NONE OF THE REPORTED OCS SPILLS HAVE THUS FAR BEEN OF A MAGNITUDE THAT HAS REQUIRED INITIATION OF FEDERAL RESPONSE FOR CLEANUP OR REMOVAL ACTIVITY OR CLAIM INCIDENTS WHICH HAVE REQUIRED FUND USAGE.

4. WHILE ALL ASPECTS OF THE FUND PROGRAM HAVE BEEN IMPLEMENTED, PERFORMANCE LEVELS IN THE CERTIFICATION OF FINANCIAL RESPONSIBILITY OF OFFSHORE FACILITIES REMAIN LOW AND THE CLAIMS ADJUSTMENT CONTRACT AND SETTLEMENT PROCEDURES ARE UNTESTED DUE TO NO SIGNIFICANT OCS SPILL INCIDENTS OCCURRING. NEVERTHELESS, I AM HAPPY TO REPORT THAT THE FUND PROGRAM IS FULLY OPERATIONAL AND CAPABLE OF RESPONDING TO AN OCS SPILL WHEN NEEDED.

WE HAVE PREVIOUSLY, IN OUR ANNUAL REPORTS TO CONGRESS ON THE ADMINISTRATION OF THE OFFSHORE FUND, SUGGESTED THE NEED FOR STATUTORY CLARIFICATIONS WHICH HAVE IMPEDED THE FUND ADMINISTRATOR'S ABILITY TO RESOLVE, BY REGULATORY OR INTERPRETATIVE ACTION, TROUBLESOME

AREAS LEADING TO FULL TITLE III IMPLEMENTATION. ACCORDINGLY, OUR LEGISLATIVE PROPOSAL WOULD CLARIFY SEVERAL OF THE SAME AMBIGUOUS CLAIMS, FINANCIAL RESPONSIBILITY, AND CIVIL PENALTY PROVISIONS OF TITLE III ADDRESSED IN THE COMMITTEE DRAFT BILL OF SEPTEMBER 3, 1981. SPECIFICALLY, OUR PROPOSAL WOULD:

- ° CLARIFY THE RIGHT OF OFFSHORE FACILITY OWNERS AND OPERATORS TO RECOVER SPILL REMOVAL COSTS IN EXCESS OF THEIR LIABILITY LIMITATION WHERE THEY ARE ENTITLED TO THAT LIMITATION;

- ° ENCOURAGE PROMPT ACTION BY AN OCS DISCHARGER TO INITIATE CLEANUP ACTION RATHER THAN WAITING FOR FEDERAL RESPONSE ACTION;

- ° CORRECT AN APPARENT DRAFTING OVERSIGHT IN ORDER TO PROVIDE AUTHORITY TO ASSESS CIVIL PENALTIES FOR FAILURE OF OCS VESSELS TO COMPLY WITH DENIAL OR DETENTION ORDERS;

- ° AND, MOST SIGNIFICANTLY, ALLEVIATE INSURANCE INDUSTRY CONCERN OVER POTENTIAL EXCESS GUARANTOR LIABILITY, I.E., LIABILITY

IN EXCESS OF THE AMOUNT OF FINANCIAL RESPONSIBILITY CONTRACTED FOR,  
BY ESTABLISHING A LIABILITY LIMIT FOR GUARANTORS.

THE LAST CHANGE I JUST MENTIONED WOULD FOSTER THE ESTABLISHMENT OF  
AN OIL POLLUTION INSURANCE MARKET FOR OFFSHORE FACILITY OWNERS AND  
OPERATORS WHO HAVE NEITHER THE CAPABILITY TO ACT AS SELF-INSURERS  
NOR THE ABILITY TO OBTAIN OTHER FORMS OF FINANCIAL RESPONSIBILITY  
EVIDENCE. AS YET, THIS SORELY NEEDED INSURANCE MARKET HAS FAILED  
TO FULLY DEVELOP.

WITH THE EXPERIENCE THE COAST GUARD HAS GAINED THUS FAR IN ADMIN-  
ISTRATION AND MANAGEMENT OF TITLE III SINCE ITS ENACTMENT, WE HAVE  
PERCEIVED A NEED FOR SOME AMENDMENTS AND DEFINED THE NATURE OF WHAT  
SUCH AMENDMENTS SHOULD ACCOMPLISH. WE ARE FULLY CONFIDENT THAT  
ENACTMENT OF OUR PROPOSED AMENDMENTS WILL IMPROVE OVERALL COAST  
GUARD MANAGEMENT OF THE OCS FUND PROGRAM AND THE ADMINISTRATION OF  
THE LIABILITY PROVISIONS OF TITLE III, AND, THUS, BETTER ENSURE  
THAT THE OBJECTIVES OF THE BASIC ACT ARE FULFILLED.

BEFORE THE COMMITTEE PROCEEDS WITH ADDITIONAL AMENDMENTS, WE URGE  
THAT THE VIEWS OF THE OCS INDUSTRY, PARTICULARLY THE DRILLING  
CONTRACTORS AND POTENTIAL FINANCIAL RESPONSIBILITY GUARANTORS BE  
OBTAINED, BECAUSE THE PROPOSED AMENDMENTS ARE OF SIGNIFICANT IMPACT

ON THOSE ENTITIES. WE ARE READY TO COOPERATE FULLY WITH THIS SUBCOMMITTEE IN WORKING OUT ANY DIFFERENCES THAT MAY ARISE FROM SUCH CONSULTATIONS.

MR. CHAIRMAN, THIS CONCLUDES MY PREPARED STATEMENT. AS I HAVE INDICATED, I WILL FORWARD, FOR THE RECORD OF THIS HEARING, ADDITIONAL VIEWS THAT MORE SPECIFICALLY ADDRESS THE SUBJECT MATTER YOU PROVIDED IN YOUR 14 SEPTEMBER LETTER TO WITNESSES, AS QUICKLY AS AN ADMINISTRATION POSITION ON THOSE VIEWS IS DEVELOPED.

I WOULD LIKE TO AGAIN THANK THE SUBCOMMITTEE FOR THE OPPORTUNITY TO EXPRESS THE COAST GUARD'S VIEWS ON THE PROPOSED AMENDMENTS TO THE OCS LANDS ACT. FRANK MARTIN, FRED PRESLEY, AND I WILL BE GLAD TO ADDRESS ANY QUESTIONS THAT YOU OR MEMBERS OF THIS SUBCOMMITTEE MAY HAVE.